

Senate Bill No. 2161

CHAPTER 461

An act to amend Section 290.5 of the Penal Code, and to add Section 6600.1 to the Welfare and Institutions Code, relating to sex offenders.

[Approved by Governor September 12, 1996. Filed
with Secretary of State September 13, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2161, Leslie. Sex offenders.

(1) Existing law authorizes a person who is required to register annually with local law enforcement officials as a sex offender to petition for a certificate of rehabilitation and pardon. Upon obtaining a certificate of rehabilitation, that person is relieved of any further duty to register as a sex offender. Failure to register when required is a misdemeanor.

This bill would provide that the person is relieved of any further duty to register upon receipt of the certificate of rehabilitation if he or she is not in custody, on parole, or on probation.

(2) Existing law specifies procedures for the civil commitment of sexually violent predators. Pursuant to these procedures, a person who is in custody under the jurisdiction of the Department of Corrections may be referred to the State Department of Mental Health for an evaluation as to whether the person may be a sexually violent predator. For these purposes, existing law defines a "sexually violent offense" as one of specified sex offenses committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury upon the victim or another person.

This bill would add specified sex offenses upon a child under the age of 14 years to that list of offenses.

(3) This bill would incorporate additional changes in Section 290.5 of the Penal Code, proposed by AB 1901, to be operative only if AB 1901 and this bill are both chaptered and become effective on or before January 1, 1997, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 290.5 of the Penal Code is amended to read:

290.5. A person required to register under Section 290 may initiate a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of this code, and upon obtaining a certificate of rehabilitation, shall be relieved of any further duty to register under Section 290 if not in custody, on parole, or on probation. This certificate shall not relieve a petitioner of the duty to

register under Section 290 for any offense subject to that section of which he or she is convicted in the future.

SEC. 2. Section 290.5 of the Penal Code is amended to read:

290.5. (a) A person required to register under Section 290 may initiate a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, and, except persons described in paragraph (1) of subdivision (a) of Section 290.4 or paragraph (2) of subdivision (g) of Section 290, upon obtaining a certificate of rehabilitation, shall be relieved of any further duty to register under Section 290 if not in custody, on parole, or on probation. This certificate shall not relieve persons described in paragraph (1) of subdivision (a) of Section 290.4 or paragraph (2) of subdivision (g) of Section 290 of the duty to register under Section 290 and shall not relieve a petitioner of the duty to register under Section 290 for any offense subject to that section of which he or she is convicted in the future.

(b) (1) Except as provided in paragraphs (2) and (3), a person described in paragraph (1) of subdivision (a) of Section 290.4 or paragraph (2) of subdivision (g) of Section 290 shall not be relieved of the duty to register until that person has obtained a full pardon as provided in Chapter 1 (commencing with Section 4800) or Chapter 3 (commencing with Section 4850) of Title 6 of Part 3.

(2) This subdivision does not apply to misdemeanor violations of Section 647.6.

(3) The court, upon granting a petition for a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, may relieve a person of the duty to register under Section 290 for a violation of Section 288 or 288.5, provided that the person was granted probation pursuant to subdivision (c) of Section 1203.066, has complied with the provisions of Section 290 for a continuous period of at least 10 years immediately preceding the filing of the petition, and has not been convicted of a felony during that period.

SEC. 3. Section 6600.1 is added to the Welfare and Institutions Code, to read:

6600.1. (a) If the victim of an underlying offense that is specified in subdivision (b) of Section 6600 is a child under the age of 14 and the offending act or acts involved substantial sexual conduct, the offense shall constitute a “sexually violent offense” for purposes of Section 6600.

(b) “Substantial sexual conduct” means penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

SEC. 4. Section 2 of this bill incorporates amendments to Section 290.5 of the Penal Code proposed by both this bill and AB 1901. It shall become operative if (1) both bills are enacted and become effective

on or before January 1, 1997, (2) each bill amends Section 290.5 of the Penal Code, and (3) this bill is enacted after AB 1901, in which case Section 290.5 of the Penal Code, as amended by AB 1901, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

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